FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
NAGPUR BENCH, NAGPUR

First Appeal No.217/2007
(Alka Chandrashekhar Bhoyar Vs. Ramdas Istari Bhoyar)

Appeal	District :
Application No.	of 200
Writ petition	

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

Mr. I.L. Waghmaray, Adv. for the appellant.
Ms S.A. Pathak, Adv. for the respondent.

CORAM : Smt. Vasanti A. Naik, J.
DATED : 25th July, 2007.

The respondent has submitted a pursis dated 25/7/2007 which is signed by the respondent as well as the counsel for the respondent. The pursis is taken on record and marked as Exh. A. In view of the pursis, the respondent has given a fair proposal whereby he relinquishes his right of custody of minor Subhash.

It is necessary to note at this juncture that I had personally interviewed the parties as well as the child on 17th July, 2007. Since the minor child was not willing to go to his grandfather in any case, this Court had expressed before the parties as well as the counsel that it would not be in the interest of justice to detach the child from his mother and to send him to his grandfather after a lapse of several years when the child had not met his grandfather for a long time. The matter was, therefore, kept on

20/7/2007 for final disposal. The counsel for the respondent made a fair statement on 20/7/2007 as also on 23/7/2007 that the respondent would give up the right to claim custody of the child in case he is permitted to meet the child on a couple of occasions in a month. The Court, therefore, asked the respondent to state the aforesaid position in writing. Hence in this background, the pursis dated 25/7/2007 is produced in the Court today.

The terms and conditions of the proposal which is incorporated in the pursis dated 25/7/2007 are extremely fair and reasonable. The respondent rightly relinquishes the right of seeking the custody of minor Subhash. The grandfather merely seeks a permission to meet Subhash twice a month i.e. on second Saturday or Sunday and on fourth Saturday or Sunday, at Shankarpur. The respondent further states that Subhash may be allowed to stay at his place during Diwali vacation and Summer vacation along with his mother, if she is ready to reside with the respondent during the aforesaid period. The respondent then states in the pursis that he is ready to allow both of them i.e. minor Subhash and his mother to stay with him at any time if they are willing to reside with him. It clearly appears from clauses (c) and (d) that they are not the conditions which are being imposed by the respondent. In fact, the respondent, by incorporating clauses (c) and (d)

in the pursis, merely gives an offer to the appellant to stay with him during summer vacation and Diwali vacation and at any point of time in case the appellant is willing to reside with him.

A perusal of the pursis and the terms laid down therein, clearly shows that the terms are extremely fair and reasonable. By relinquishing the right of custody of minor Subhash, the respondent is merely seeking permission to meet Subhash twice a month on second Saturday or Sunday and on fourth Saturday or Sunday. This opportunity cannot be denied to the respondent. The respondent would, therefore, be entitled to meet Subhash twice a month i.e. on the second Saturday or Sunday and on fourth Saturday or Sunday, at Shankarpur. The appellant should permit the respondent to meet the child on the aforesaid two days in a month. In case the appellant is willing, she may accompany the child and stay with the respondent at his residence in Diwali and Summer vacations along with Subhash.

In view of the pursis dated 25/7/2007 at Exh. A, the appeal is partly allowed. The judgment passed by the District Judge, Bhandara, on 17/8/2006 is hereby set aside. The appellant is permitted to retain the custody of minor child Subhash. The appellant is directed to permit the respondent to meet the minor child twice a month at Shankarpur. The appellant is further free to

consider the offer given by the respondent in clauses (c) and (d) of the pursis dated 25/7/2007. The appeal is disposed of on the aforesaid terms. In the facts of the case, there would be no order as to costs.

JUDGE

RMP